

1-1-1956

The Two Realms and the "Separation of Church and State" in American Society

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Recommended Citation

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Concordia Theological Monthly

Edited by
The Faculty of Concordia Seminary
Saint Louis, Missouri



68593

St. Louis, Mo.
CONCORDIA PUBLISHING HOUSE
1956

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Concordia Theological Monthly

VOL. XXVII

JANUARY 1956

No. 1

The Two Realms and the "Separation of Church and State" in American Society

By ERNEST B. KOENKER

IN the dramatic episode before Pilate, Caesar's procurator, Christ said: "My kingdom is not of this world. If My kingdom were of this world, then would My servants fight, that I should not be delivered to the Jews; but now is My kingdom not from hence" (John 18:36). Christ unquestionably possessed a kingdom, one of power, righteousness, wealth, stability, beauty, but now as He stands before Caesar, He seems to be dispossessed. So great was His extremity that the *primus inter pares* of the small band, the very one who shortly before had wielded a sword to save Him, an hour later vehemently denied knowing Him. Christ's kingdom, which was to grow until it would be spread throughout the world, seemed unable to save its king. Already in this crucial situation we perceive the accuracy of Erich Frank's observation that in this world it is always Caesar who conquers, and always Christ who is crucified.¹

This tension between the kingdom of God and political rule is an aspect of the New Testament contrast between the kingdom of God and the world. The world's original goodness has been perverted; powers of evil are to be found everywhere. In the case of political authority, too, an ἐξουσία that stems from God, appointed by Him to be a minister for good and to punish evil (Rom. 13:4), we find this authority employed for destructive ends. The climax of this destruction came when the "princes of this

¹ Cf. *Philosophical Understanding and Religious Truth* (New York: Oxford, 1945), pp. 123—128.

world . . . crucified the Lord of Glory" (1 Cor. 2:8). Yet the divine judgment on this conflict is that victory does not go to the lords of this world but to Christ. "I have overcome the world" (John 16:33).

This conflict between two competing allegiances runs through the New Testament, and in spite of persistent efforts to amalgamate the two realms of the Christian's life they are and must remain distinct, though not separate, allegiances. On the one hand, we continue to live on in this world (John 13:1; 17:11), but our heavenly allegiance makes us "dead with Christ from the rudiments of the world" (Col. 2:20). This is the basis for St. Augustine's distinction between the city of man and the city of God. It is the Biblical foundation for the distinction between the two realms made by Luther and the Confessions. It is the inescapable, still viable distinction underlying a presentation by Gordon Rupp, English Methodist and Luther scholar, over the BBC this year on "The Two Kingdoms."²

LUTHER ON THE TWOFOLD RULE OF GOD

It is not possible to survey here the infinite variations and fluctuations, as to conception as well as practice, in the relationships between the two realms. We should, however, say that Luther's verdict on the pre-Constantine experience of the church was that *ecclesia vera est ecclesia pressa*. His view of the medieval idea of the *corpus Christianum*, whereby nations, too, professed to be ruled by the Christian Gospel under the primacy of the Pope, was one of unqualified dissent.³ Here we see how the distinction between Law and Gospel lies at the basis of Lutheran political ethics. It was Luther's conviction that "a nation as a nation cannot be governed by the Gospel."⁴

One may not, as do many of his critics, ignore the fact that Luther's ethics stem from his concern for the purity of the Gospel. God rules His people by twofold means, in a twofold way, through redemptive and coercive means. Although He has a single purpose

² Cf. *The Listener*, March 3, 1955, pp. 377, 378.

³ For a discussion of Luther's break with the *corpus Christianum* see Werner Elert, *Morphologie des Luthertums* (Munich, 1931-32), II, 329ff.

⁴ "On Secular Authority" in *Works of Martin Luther* (Philadelphia: Muhlenberg Press, 1915-32), III, 237.

in all His activities, namely, the establishment of the Kingdom of Grace, yet the relationships in which people stand and their responses to the Gospel call for different methods. By means of the Law it is God's purpose to preserve the world; here we see how keenly Luther detected the unwillingness of broad sections of mankind to receive the Gospel. Through the Gospel God, who has reconciled the world to Himself, purposes to unite mankind with Himself (2 Cor. 5:19). God's will appears in the form of the secular realm as hidden, the work of the *deus absconditus*. Thus the state, too, is a *larva Dei*, a mask of God, by which He brings about His purposes. Civil power has no justification to place itself above or outside the Law of God; it can be no law unto itself. In the secular realm Christ and His gracious rule are not known. The rebellious unbeliever cannot be governed by the Gospel since it is not an external political law. The secular realm is the result of man's sin, and its measures are conditioned by the fact that demonic powers hold sway here.⁵

In the spiritual realm, on the other hand, God's will is revealed through Christ as a gracious will, the work of the *deus revelatus*. Through God's manifestation in Christ His preserving will in the case of the secular realm, too, can be discerned. God is Lord of both realms, although His rule is expressed differently in church and state. Luther wrote:

For this reason these two kingdoms must be sharply distinguished, and both must be permitted to remain; the one to produce piety, the other to bring about external peace and prevent evil deeds. Neither is sufficient in the world without the other. For no one can become pious before God by means of the secular government, without Christ's spiritual rule. Hence Christ's rule does not extend over all, but Christians are always in the minority and are in the midst of non-Christians. Where there is only secular rule or law, there, of necessity, is sheer hypocrisy, though the commandments be God's

⁵ Far from being "medieval" in his conception of the demonic, Luther pointed to an inescapable aspect of the modern state. Jacob Burckhardt was one of the few men to recognize the insatiable, egoistic character of power during the last century. Cf. *Force and Freedom* (New York: Meridian Books, 1955), pp. 65, 66, 102, 164. In his outstanding work on the ethics of politics the Erlangen theologian Walter Künneht attempts to give adequate recognition to the demonic in political affairs. Cf. *Politik zwischen Dämon und Gott* (Berlin: Lutherisches Verlagshaus, 1954), *passim*.

very own. Without the Holy Spirit in the heart no one becomes really pious, he may do as fine works as he will. Where, on the other hand, the spiritual government rules alone over land and people, there evil is given free rein and the door is opened for every kind of knavery; for the natural world cannot receive or comprehend spiritual things.⁶

However, no discussion of the two realms can overlook the vigorous criticism this teaching has received from many quarters in recent years.⁷ For example, critics have asserted that Luther — or later Lutheranism — so completely cut off the kingdom of this world from Christ's kingdom that no relationship or interaction is possible between them. One's inner, spiritual life is directed by the church; secular affairs form another, "autonomous" sphere directed by the government. This may be carried to the point that the Christian citizen owes absolute obedience to the state in all social matters.⁸ Or it is held that the doctrine of the two realms may contribute to the complete secularization of the state, so that no prophetic warning or criticism is possible. The secular power may be encouraged to break progressively with religious purposes and standards so that it becomes the new Leviathan.⁹ Further, it is asserted that Luther's kingdom of the right hand allows no place for law or the quest for justice, whereas the kingdom of the left hand knows nothing of the Gospel or Christian agape.¹⁰

If, however, it is recognized that both of these realms are under the dominion of the Triune God and that, furthermore, through the individual Christian's vocation, He enjoins the believer to discharge his responsibility as a Christian in civil affairs, the dualism or autonomy of the state will be avoided. Herman Sasse quite

⁶ Op. cit., pp. 237, 238. See fn. 4 above.

⁷ A comprehensive survey and reply to the many misunderstandings is presented by Künneht, pp. 72 ff.

⁸ Kressman Taylor indicates how this position was operative in Germany under Hitler. Cf. *Until That Day* (New York: Duell, Sloan & Pearce, 1942), pp. 72 ff.

⁹ Cf. *From the Bible to the Modern World*, 2d ed. (Switzerland: Study Department of the World Council of Churches), 1949, pp. 107, 108.

¹⁰ Reinhold Niebuhr, *Christian Realism and Political Problems* (New York: Charles Scribner's Sons, 1953), pp. 162, 163. The criticism is reiterated in his recent *The Self and the Dramas of History* (New York: Charles Scribner's Sons, 1955), pp. 187 ff.

rightly castigates so-called Lutherans who supported Hitler because they did not know their Luther:

They picked out of Luther's teaching those sentences regarding governmental authority which were opportune and which people wanted to hear: sentences concerning the dignity of divinely ordained offices and the duty of obedience to them. But what Luther said about the sins of governmental authority, about the tyrannous murder of men's souls by "authority" which goes beyond its limits, or about the boundaries of obedience—all that was whispered very softly in the first years of the Third Reich or not mentioned at all. Much was quoted from the great Reformer regarding the "heroes and miracle men of God" in history, but the fact that earthly princes were also "God's whipmasters and executioners" and "either the biggest fools or the most egregious knaves on earth"—these perceptions of Luther were kept in desk drawers and saved for other days than the ones in which, as people declared, "the hour for a German church had struck." . . . They supplemented Luther with Robespierre.¹¹

As a final note to the German understanding of Luther we might consider a parallel judgment coming from Gordon Rupp: "Luther's subtle and profound teaching about the state had been oversimplified and misunderstood in later generations, and the course of German history itself—which I regard as the real villain of the piece—ended in a situation where too many Christians were only too ready to leave the state to its own devices and tamely to insist only on the duty of obedience."¹²

THE CONFESSIONS ON THE DISTINCTION BETWEEN THE TWO POWERS

Significantly, the Lutheran Confessions were hammered out in the midst of, even as elements in, a church-state struggle. In their teaching on civil affairs they represent a faithful and classic expression of Luther's teaching on the two realms. They show a profound concern that the church be separated from its medieval entanglements: bishops administering vast fiefs, the churchmen courting

¹¹ Quoted by Stewart Herman, *The Rebirth of the German Church* (London: S. C. M. Press, 1946), p. 62.

¹² *Ibid.*, p. 377. No more trenchant criticism of the misunderstanding of Luther's conception is to be found than Berggrav's wartime lecture, "When the Driver Is out of His Mind," *Man and State* (Philadelphia: Muhlenberg Press, 1951), pp. 300—319.

wealth and political advantages. The concern of the Confessions, too, is for the purity and free course of the Gospel: a realm that Caesar would never fully fathom dare not be subjected to Caesar; nor dare it, in a theocratic manner, hold Caesar subject to itself. A clear distinction is made between ecclesiastical and civil powers:

Therefore the power of the Church and the civil power must not be confounded. The power of the Church has its own commission, to teach the Gospel and to administer the Sacraments. Let it not break into the office of another; let it not transfer the kingdoms of this world; let it not abrogate the laws of civil rulers; let it not abolish lawful obedience; let it not interfere with judgments concerning civil ordinances or contracts; let it not prescribe laws to civil rulers concerning the form of the Commonwealth. (AC XXVIII 12, 13.)

Confusion of functions in this area, as in the mixing of Law and Gospel, leads to lawlessness, enthusiasm, or hindrance to the Gospel. The medieval and Roman Catholic pattern is disclaimed. The church shall not attempt to impose its will on the body politic, and the state shall not endeavor to spread the Gospel by legislative procedures. At the same time no specific form of political life is prescribed by the Confessions. Forms may vary according to the requirements of particular peoples and special situations; there is no speculation here regarding the "ideal state."

However, along with this functional conception of government, the Confessions emphasize that "lawful civil ordinances are good works of God" (AC XVI 1); they are "good creatures of God and divine ordinances" (Ap XVI 53); both powers are to be honored as "gifts and blessings of God" (AC XXVIII 18). One cannot, therefore, speak of an autonomy of the secular sphere, since both are bound together in the creative, preserving, and saving purpose of God Himself. God's supreme purpose is realized only when one honors and obeys both spheres. The Christian is not confronted with a dichotomy here tearing him asunder, but rather regards his particular station as a God-given task in which to serve God. However, as Edmund Schlink has pointed out, God is at work when He seems most distant:

... so something common to each activity is that it occurs through men—and this means that at the same time it occurs in spite of men. In both rules God condescends to men in that He takes them up into His service, hides His action in their actions, His Word in

their words. In this condescension God exercises His sovereign Lordship. This becomes most apparent in that within both spheres He works even through men who are members not of God's but of Satan's kingdom, who do not receive Christ's saving benefits but abuse the Cross of Christ by unbelief and obstinate crimes. So God works through the pagans, too, the sphere of secular authority.¹³

Under the justice and peace of civil government, communities and nations are held together. Such work cannot be completely unrelated to the church's proclamation of Law and Gospel, since a basic structure of meaningful life in society is involved here. Civil government provides a legal framework and innumerable tools available also to the churches. The Augsburg Confession recognizes this relationship when it states: "Meanwhile, it [i. e., the Gospel] does not destroy the state or the family, but very much requires that they be preserved as ordinances of God, and that charity be practiced in such ordinances" (XVI 4). The German text does not parallel the Latin here, but gives a clear expression of the Christian's responsibility in society. First, it employs the terms *Stände* and *Beruf*, both so important for Lutheran theology and ethics. And, secondly, it emphasizes the possibilities of Christian love and good works in the individual's vocation: . . . *und in solchen Ständen christliche Liebe und rechte, gute Werke, ein jeder nach seinem Beruf, beweise* (ibid.). As far as the Augsburg Confession is concerned, Niebuhr's criticism fails to recognize the clasps holding the two realms together. In fact, ultimately for Luther and the Lutheran Confessions there is but one realm, the realm of God, and but one obedience, the obedience to the one Lord.

There are many matters related to the political ethics of the Confessions which might be examined: the possibility and responsibility of holding public office, the extent and limits of obedience to the secular realm. It should be said that the Confessions recognize a tyrannical authority (Ap XXVIII 14) and the possibility of disobedience in cases where one is commanded to sin (Ap XVI 7). They recognize the reality of a law superior to the arbitrary or tyrannical dictates of the state. Inasmuch as the Christian owes his supreme loyalty to God, he may find it necessary to withstand a demonic or unlawful authority.

¹³ *Theologie der lutherischen Bekenntnisschriften* (München: Chr. Kaiser Verlag, 1946), p. 316.

WHAT IS MEANT BY "SEPARATION OF CHURCH AND STATE"?

We have become so accustomed during recent centuries to think in terms of "separation of church and state" or of an "established church" that we often fail to realize that these designations are quite recent and, in a sense, makeshift developments. They are results and sponsors of a compartmental arrangement of life. In the light of the idea that man is a unified entity, they must be judged to be pragmatic and artificial. A more natural situation, if one approaches the question from the point of view of the Christian standing under obedience to the Word, may be seen, e. g., in the religious unity of ancient Israel under the Old Covenant. An underlying unity of one's responsibilities in the religious and political spheres was possible then. In fact, one was not forced to think of separate spheres or to struggle with conflicting allegiances. An authority at once political and religious claimed his allegiance. The establishment of the monarchy, to be sure, quickly introduced conflicts between the king's course and God's demands. But as the Old Covenant recognizes only one source of authority, so also the New Covenant; and only one ultimate obedience, that owed to God alone.

One might find it easy either to exaggerate or minimize the significance of the reference to the "laws of nature" and "nature's God" in the Declaration of Independence. There are innumerable facets to the problem of the religious views of the founding fathers, yet it should be mentioned that this orientation of our Government has served as a protection against tyranny and demonic pretensions. It is the First Amendment to the Constitution that forms the ground plan for the questions in our area: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. . . ." We might note that though the expression "separation of church and state" is employed frequently in connection with the First Amendment the expression as such does not occur in this amendment. Jefferson interpreted it in these terms, but their ambiguous character has repeatedly become evident. Professor Arthur E. Sutherland states in the *Harvard Law Review*: "The wall of separation is a very satisfying metaphor. It has a fine, tangible, firm sound. No one can doubt where a stone wall is. But a metaphor is generally more effective as a slogan than usable as

a definition; and 'agreement in the abstract,' as Mr. Justice Frankfurter said, 'that the First Amendment was designed to erect a "wall of separation between church and state," does not preclude a clash of views as to what the wall separates!'"¹⁴

The particular concern of each of the many parties involved in freedom of religion—Roman Catholics, Lutherans, agnostics, Protestants of many denominations, the state itself—would seem to make the amendment subject to many points of view in establishing its meaning. Professor James Savage has pointed to four possible interpretations, according to the interests one brings to his reading of the amendment. He indicates how delicately the relevant factors in a case may poise the balance. He places confidence in the judicial process, however, when he points to a breadth of choices actually available to the courts: "The First Amendment can be given an interpretation that will balance the interests of the state, of non-Christians, of Protestants, and of Roman Catholics—an interpretation that will protect religious liberty on the one hand and provide a sympathetic and protective attitude toward religion on the other."¹⁵

We must acknowledge with gratitude the opportunities granted by the Bill of Rights for churches and the state to interact constructively on one another. If they were separated in every respect one would have reason to fear a weakening of the churches as well as of the state. At present the church enjoys a privileged position so far as conscription is concerned, tax exemption, chaplaincies in the Armed Forces and legislative assemblies, school lunch programs, etc. An absolute separation would deny any participation of the Christian in political affairs. This would open the door to the completely secular state, which would inculcate its own—possibly anti-Christian—ideology in the public schools; it would require a religious devotion to itself, as is not entirely without evidence even now among spokesmen for the public schools and for democracy.

The state cannot be completely unconcerned about the religious principles or welfare of its people. Educators, too, cannot be alto-

¹⁴ "Due Process and Disestablishment," LXII (1948—49), 1311.

¹⁵ "Some Further Notes on Religious Liberty," *The Cresset*, Vol. XIV, No. 9 (1950—51), p. 16.

gether uninterested in the religious basis of the common life. Some direction must be taken in the orientation of democratic institutions, and it is of vital importance that this orientation is not outright paganism. The New York State Court of Appeals clearly acknowledged this danger inherent in the famous McCollum decision when in 1951 it declared that no violation of separation of church and state is involved when religious instruction is given off school property. The court stated:

It is manifest that the McCollum case is not a holding that all released-time programs are *per se* unconstitutional. . . . The Constitution does not demand that every friendly gesture between church and state shall be discountenanced. The so-called "wall of separation" may be built so high and so broad as to impair both state and church. . . . It must be remembered that the First Amendment not only forbids laws "respecting an establishment of religion," but also laws "prohibiting the free exercise thereof." We must not destroy one in an effort to preserve the other.¹⁶

At the present time hearings have been scheduled by a Senate subcommittee, Hennings of Missouri, chairman, to conduct a careful survey of the Bill of Rights. The touchy question of Federal aid to churches and religious education will be examined. Instances of denial of religious liberty will be investigated as well. The investigation indicates a vital concern for the welfare of religious institutions, but it is not yet evident in which direction the examination may possibly move. It does demonstrate, however, the interest of the American Government to show utmost consideration for the constructive work which the church is doing. In this area one cannot assert that the Government must practice complete neutrality toward God, but it must be observed that governmental neutrality has in some phases of educational theory and practice, through the convincing slogan of a "wall of separation," come close to indifference toward God.

NO EXACT PARALLEL CAN BE TRACED

In relating the Lutheran Confessions to the American separation of church and state one might raise the question whether we meet in the Confessions any "absolute" separation of the church from the state. Is a "wall of separation," to use Jefferson's misleading

¹⁶ Reported in *Time*, LVIII (July 31, 1951).

metaphor, set up here? The factors mentioned above should answer this question. The Lutheran symbols do not anticipate by centuries Jefferson's phrase. In fact, when the Anabaptists of the Reformation period advocated the absolute separation of church and state, the Lutherans in their Confessions explicitly rejected their idea (AC XVI 3).

However, before one undertakes to relate the stand of the Confessions to our changing situation, one should recognize in their full vigor some of the problems involved. For example, civil authority—the Confessions do not employ the term "state"—was for the confessional writers the small, territorial principality of the late Middle Ages. The national state of modern times has expanded a thousandfold. The resources at the disposal of the modern state, in the form of channels of communication, police power, or national resources dwarf the power of medieval Germany's territorial crazy quilt. But of much greater importance is the fact that the wielder of power with whom Luther and the Confessions deal is the so-called "Christian prince." How is one to relate what was spoken within this particular historical context to America under the leadership of Eisenhower? Moreover, the Confessions warn the church against losing its distinctive ministry of God's grace in the fitful concern of churchmen for property and political prestige. Does not the American situation present some quite novel features along with the persistent manipulations for political favor?

A severe critic might suggest that the Lutheran Confessions, hammered out in the context of a unique, sixteenth-century situation, have no relevance to the American situation. He would deny the possibility of imposing a late medieval pattern on our novel and complex situation. Another critic might suggest that the British tradition of religious liberty casts more light on our situation than do German princely institutions. In any case, no exact parallel need be sought, for none is available.

THE RELEVANCE OF THE CONFESSIONS TO THE AMERICAN SITUATION

Although exact parallels to the American situation cannot be found in the Confessions, it cannot be denied that the symbols

are relevant to our problems. The Augsburg Confession distinguishes more sharply between the state and the church than did the medieval theory of co-operating organs in the *corpus Christianum*. The steps taken toward disestablishment in the American experience represent a progression in this development. However, along with the trend toward separation came the progressive secularization of the state, an innovation which the Confessions could not anticipate. Ernst Troeltsch has emphasized this phenomenon most forcefully. The Christian standards which the Confessions presuppose for the conduct of political matters were being more and more ignored. The principle that the state is subject to the judgment of God's Word and the teaching that its maintenance of law and order serves the purpose of the promotion of the Gospel have been supplanted by the principle of sovereignty. According to this view, the state is the highest authority on earth and is itself the source of all political power. The state serves purposes of its own rather than God's. It can easily become another god vying for men's devotion.

It should be clear that the Confessions were not originally addressed to such a situation. Yet the interests and guiding lines of the Confessions should guide our thinking on church and state today. The Confessions do not specify in detail a single arrangement in the relationship between the two. The Lutheran Christian can work constructively in the framework of the American situation because of the abundant assurances of religious liberty. His Christian vocation requires that he participate responsibly in all civic matters for which he is capable. Thereby he can counteract many of the secularizing influences which creep into the modern state and can constructively aid his neighbors in their joint task. He should realize that though the Gospel is not proclaimed to the state as such, fidelity to the Gospel is ultimately of the greatest importance to the state. The influence of the Christian citizen, who lives out his faith in his particular calling, serves to strengthen the fabric of the common life. The Christian can do this, in the face of tensions and misgivings, with fortitude and humility—and therefore only through faith in the forgiveness of sins.

Valparaiso, Ind.